



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2021-000154
First tier Number: PA/03439/2020

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On 15th of March 2024**

Before

**UPPER TRIBUNAL JUDGE LANE
DEPUTY UPPER TRIBUNAL JUDGE KELLY**

Between

**AM
(ANONYMITY ORDERED)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr T Hussain, Counsel instructed by Halliday Reeves Solicitors
For the Respondent: Mr Diwnycz, Senior Home Office Presenting Officer

Heard at Phoenix House (Bradford) on 1 March 2023

**Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008,
the appellant is granted anonymity.**

**No-one shall publish or reveal any information, including the name or
address of the appellant, likely to lead members of the public to identify the
appellant. Failure to comply with this order could amount to a contempt of
court.**

DECISION AND REASONS

Introduction

1. This is the second stage of an appeal by the appellant, an Iraqi citizen who was born on the 14th January 1993, against the decision of First-tier Tribunal Judge Mayne to dismiss his appeal against refusal of his protection claim.

The appellant's claim

Number: PA/03439/2020

2. The appellant's protection claim can be summarised by saying that (a) he has a well-founded fear of being harmed by his step-father in retaliation for assaulting him whilst he (the appellant) was defending his mother, and (b) there is a real risk that he will suffer inhuman or other degrading treatment because he does not possess an Iraqi identification document that is essential for survival in Iraq.

The decision of the First-tier Tribunal

3. The judge found that the appellant had not provided cogent and credible evidence concerning his reasons for leaving Iraq [29] but nevertheless appears to have accepted that he did not possess the relevant Iraqi identify card (CSID) [49]. The judge however concluded that this did not provide an impediment to the appellant's safe return to Iraq because, "it is still possible for a replacement CSID to be sought via the Iraqi consular in the UK", and that this would then, "facilitate internal travel in Iraq as well as any application for a [biometric identity card]" [51].

The Error of Law Hearing

4. At an error of law hearing, held on the 19th June 2023, the Home Office Presenting Officer conceded the finding by the First-tier Tribunal that the appellant could re-document himself remotely from outside Iraq was contrary to background country information and that it was accordingly an error of law. The decision of the First-tier Tribunal was therefore set aside to this limited extent, and the matter thus came before us for re-determination of that issue.

The Hearing

5. The matter was originally listed before us on the 11th December 2023. Just days before that hearing, Mr Diwnycz served a series of maps that were accompanied by his explanatory notes. The effect of that evidence was to suggest that the appellant would be able to travel from Sulaymaniyah airport to his home area of Razgari, Kalar, Sulaymaniyah Governorate, without him needing to cross any "lines of control". He would not therefore require possession of an identity card whilst travelling from the airport to his home area to obtain a replacement. Given the lack of adequate notice that had been given of this evidence, we granted Mr Hussain's application for an adjournment in order to provide the appellant with an opportunity to rebut it.
6. The matter was re-listed before us on the 1st March 2023. Mr Hussain once again applied to adjourn the hearing. Whilst he acknowledged that the appellant's representatives had served a detailed report in the interim, written by a widely acknowledged expert in middle-eastern affairs (Dr Fatah), he nevertheless asserted that the report was "incomplete" and required further amplification and clarification. We refused the application. In our view, the existing report was neither incomplete nor lacking in appropriate detail concerning the issue that we were required to re-determine (above). Mr Hussain's suggestion that Dr Fatah may be able to provide the (notably unspecified) further particulars concerning the issue in hand was, in our judgement, entirely speculative.
7. We thereafter heard helpful submissions from the representatives before reserving our decision, which appears below.

Analysis of the evidence

Number: PA/03439/2020

8. Mr Diwniycz relied upon a series of maps taken from the websites 'Geographical Names' (whose source is the National Geospatial Intelligence Agency in the USA), 'Livemap', and 'Google Maps. These maps showed what Mr Diwniycz called "the lines of control", which were effectively the boundaries between the Kurdish-controlled regions of Iraq and those controlled by the Iraqi government. Mr Diwniycz made the simple point that the appellant would not need to cross one of these lines of control given that both Sulaymaniyah and his home area fell within the same Governorate.
9. Dr Fatah's report covers many aspects of the country situation in Iraq, including the procedures for obtaining a replacement Civil Status Identity Document (CSID) and the New National Identity Document (INID), powers of attorney, laissez passer, support letters, and the potential risk to individuals without an identity document in Iraq. Given the issue in this appeal (above), the parts of the report that are of particular interest can be found in sections 6.10 and 6.11. The following points appear particularly pertinent to that issue. Firstly, the system of checkpoints is not formally regulated. Secondly, the practice of requiring production of a CSID or INID at checkpoints is now firmly established, albeit lacking any legal foundation. Thirdly, checkpoints in the IKR are manned by the Kurdish security forces, namely the Asayish. Those forces are divided into those affiliated with the PUK and those affiliated with the KDP. These are yet further divided into those controlled by the various factions or senior individuals within each of the respective parties. Fourthly, if a person attempts to pass through a checkpoint without documentation, the security officer may find it suspicious and would likely detain the person until they are able to provide their documentation or have somebody vouch for them. Fifthly, whilst not having an identity documents does not of itself place a person at risk, as soon as an individual has to interact with the authorities, such as crossing a checkpoint, entering government offices, or being stopped in the street, there is a risk of them being detained if they are unable to produce an identity document. Finally, there are checkpoints between Sulaymaniyah Airport and the appellant's home area.
10. The assumption underlying Mr Diwniycz's interpretation of the various maps that he has submitted in evidence is that checkpoints only lie along the demarcation lines between the IKR and those areas that are controlled by the Iraqi government. However, it is clear from the report of Dr Fatah that this assumption is not well-founded. To the contrary, it is clear that not only are there checkpoints between those areas that are controlled by the PUK and KDP, respectively, but also within each of those areas. We accordingly find that there is a reasonable degree of likelihood that the appellant would be stopped and detained at a checkpoint whilst attempting to make his way from Sulaymaniyah Airport to his home area, and that this would in turn expose him to a real risk of inhumane or degrading treatment. We therefore conclude that the appellant is a person entitled to a grant of humanitarian protection.

Notice of Decision

The decision of the First-tier Tribunal to dismiss the appeal has previously been set aside, and is now substituted by a decision to allow the appeal on the ground that the appellant is a person entitled to a grant of humanitarian protection.

David Kelly

2021-000154

Case No: UI-

First tier

Number: PA/03439/2020

Deputy Judge of the Upper Tribunal
(Immigration and Asylum Chamber)
2024

2nd March